

Senate Bill No. 1831

Passed the Senate August 17, 2004

Secretary of the Senate

Passed the Assembly August 12, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 1623.1, 1624, 1624.05, 1624.1, 2782, 3351, 3692, 3706.1, 3811, 4672, 4672.1, 4986, 5151, and 20583 of the Revenue and Taxation Code, relating to property taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1831, Cedillo. Property tax administration.

(1) Existing law requires the county treasurer to keep an accounting of all moneys, including property tax payments, that he or she pays or receives. Existing property tax law also requires a county treasurer or tax collector, as applicable, to pay interest on replicated property tax payments if that replicated payment is not returned to the tendering party within 60 days following the receipt of the replicated payment.

This bill would provide that the requirement to pay interest on a replicated payment only applies if the accrued interest is equal to or greater than \$10 at the time the replicated payment is returned to the tendering party.

(2) Existing law requires the tax collector to publish annually a notice of impending default for failure to pay taxes on real property, and to publish annually the affidavit that real property, on which taxes, assessments, penalties, and costs had not been fully paid by the close of business on the last business day of the fiscal year, is in default.

This bill would instead specify as the default date June 30, or the next business day if June 30 falls on a weekend or holiday.

(3) Existing law requires the tax collector to attempt to sell tax-defaulted property within 4 years of the time that property becomes subject to sale for nonpayment of taxes. Existing law authorizes a tax collector, in the case of tax-defaulted property that is rendered unusable by its size, location, or other condition, to allow owners of contiguous parcels to place a bid on that tax-defaulted property.

This bill would authorize a tax collector to also allow a holder of record of either a predominant easement or a right-of-way easement on that tax-defaulted property to place a bid on that tax-defaulted property.



(4) Existing property tax law requires that notice of any postponed public auction sale of tax-defaulted property, that is held not less than 8 days nor more than 60 days from the date of the originally scheduled sale, be given in the same manner as the notice for that originally scheduled sale.

This bill would increase the maximum postponement period specified in this requirement from 60 days to 90 days.

(5) Existing law sets forth procedures that are required to be followed with respect to sales of tax-defaulted property.

This bill would make clarifying amendments to repeal references to procedures that are no longer required by law.

(6) Existing property tax law requires a county auditor, without regard to the existing 4-year statute of limitations, and upon receipt of satisfactory proof, to cancel specified classes of taxes, penalties, or costs levied or charged on property.

This bill would authorize the county auditor to cancel erroneous assessments collected after the expiration of the 4-year statute of limitations, if the request for cancellation is initiated within 120 days of the payment of those erroneous assessments.

(7) Existing property tax law provides that certain individuals who have an ownership interest, as defined, in a residential dwelling may request postponement of property taxes.

This bill would include in the definition of an ownership interest an interest in residential property that is held in a specified type of trust, if the Controller determines that the state's interest is adequately protected.

(8) Under existing law, a person appointed or selected to be a member of an assessment appeals board must have certain qualifications relating to experience and knowledge.

This bill would make a conforming change relating to requiring members appointed to the assessment appeals board to meet different eligibility requirements based on the population of the county in which the assessment appeals board sits. This bill would also allow a property appraiser certified by the State Board of Equalization to be eligible for nomination to the assessment appeals board, and would require documentation of qualifying experience of appeals board members to be filed with the clerk of the board.

(9) This bill would also make various clarifying or technical, nonsubstantive changes.



The people of the State of California do enact as follows:

SECTION 1. Section 1623.1 of the Revenue and Taxation Code is amended to read:

1623.1. As an alternative to the nomination and selection procedure provided in Section 1623, the board of supervisors may, by ordinance, provide that it shall appoint the members and alternates of the assessment appeals board, upon the expiration of any term of office or the occurrence of a vacancy on such board. Any person so appointed shall meet the eligibility requirements of Section 1624 or 1624.05, whichever is applicable.

SEC. 2. Section 1624 of the Revenue and Taxation Code is amended to read:

1624. (a) A person is not eligible for nomination for membership on an assessment appeals board unless he or she meets one of the following criteria:

(1) Has a minimum of five years professional experience in this state as a certified public accountant or public accountant, a licensed real estate broker, an attorney, a property appraiser accredited by a nationally recognized professional organization, or a property appraiser certified by the Office of Real Estate Appraisers, or a property appraiser certified by the State Board of Equalization.

(2) Is a person who the nominating member of the board of supervisors has reason to believe is possessed of competent knowledge of property appraisal and taxation.

(b) Documentation of qualifying experience of appeals board members shall be filed with the clerk of the board.

(c) This section shall apply only to an assessment appeals board in a county with a population of less than 200,000.

(d) County population estimates conducted by the Department of Finance pursuant to Section 13073.5 of the Government Code shall be used in determining the population of a county for purposes of this section.

SEC. 3. Section 1624.05 of the Revenue and Taxation Code is amended to read:

1624.05. (a) A person shall not be eligible for nomination for membership on an assessment appeals board unless he or she has a minimum of five years' professional experience in this state as one of the following: certified public accountant or public



accountant, licensed real estate broker, attorney, property appraiser accredited by a nationally recognized professional organization, property appraiser certified by the Office of Real Estate Appraisers, or property appraiser certified by the State Board of Equalization.

(b) Notwithstanding the provisions of subdivision (a), a person shall be eligible for nomination for membership on an assessment appeals board if, at the time of the nomination, he or she is a current member of an assessment appeals board.

(c) Documentation of qualifying experience of appeals board members shall be filed with the clerk of the board.

(d) This section shall apply only to an assessment appeals board in a county with a population of 200,000 or more.

(e) County population estimates conducted by the Department of Finance pursuant to Section 13073.5 of the Government Code shall be used in determining the population of a county for purposes of this section.

SEC. 4. Section 1624.1 of the Revenue and Taxation Code is amended to read:

1624.1. No person shall be qualified to be a member of an assessment appeals board who has, within the three years immediately preceding his or her appointment to that board, been an employee of an assessor's office.

SEC. 5. Section 2782 of the Revenue and Taxation Code is amended to read:

2782. If a replicated tax payment is not returned to the tendering party within 60 days as provided in this chapter, the county shall, in addition to returning the replicated payment as soon as practicable, pay the tendering party interest, if that interest is ten dollars (\$10) or more, on the amount of replicated payment at the rate provided in Section 5151. The interest shall be computed for the period beginning 60 days after the county receives the replicated payment to the date the replicated payment is returned to the tendering party.

SEC. 6. Section 3351 of the Revenue and Taxation Code is amended to read:

3351. (a) Annually, on or before June 8, the tax collector shall publish a notice of impending default for failure to pay taxes on real property, except tax-defaulted property and possessory interests, the taxes, assessments, penalties, and costs on which will



have not been fully paid by the close of business on June 30, or the next business day if June 30 falls on a Saturday, Sunday, or a legal holiday.

(b) If the tax collector sends reminder notices prior to the close of the fiscal year and annually sends a redemption notice of prior year due taxes, the notice required by subdivision (a) shall only include properties that have been tax-delinquent for three or more years and for which the latest reminder notice or redemption notice was returned to the tax collector as undeliverable.

SEC. 7. Section 3692 of the Revenue and Taxation Code is amended to read:

3692. (a) The tax collector shall attempt to sell tax-defaulted property, as provided in this chapter, within four years of the time that the property becomes subject to sale for nonpayment of taxes unless, by other provisions of law, the property is not subject to sale. If there are no acceptable bids at the attempted sale, the tax collector shall attempt to sell the property at intervals of no more than six years until the property is sold.

(b) When oil, gas, or mineral rights are subject to sale for nonpayment of taxes, the tax collector may offer the interest at minimum bid to the holders of outstanding interests where the interest subject to sale is a partial interest or, where the interest subject to sale is a complete and undivided interest, to the owner or owners of the property to which the oil, gas, or mineral rights are appurtenant.

(c) When parcels that are rendered unusable by their size, location, or other conditions are subject to sale for nonpayment of taxes, the tax collector may offer the parcel, at a minimum bid, to owners of contiguous parcels or to a holder of record of either a predominant easement or a right-of-way easement. If the parcel is sold to a contiguous property owner, the tax collector shall require that the successful bidder request the assessor and the planning director to combine the unusable parcel with the bidder's own parcel as a condition of sale.

(d) Sealed bid sale procedures shall be used when offers are made pursuant to subdivision (b) or subdivision (c), and the property shall be sold to the highest eligible bidder. The offers shall remain in effect for 30 days or until notice is given pursuant to Section 3702, whichever is later.



(e) The Notice to the Board of Supervisors and Notice of Intended Sale of Tax-Defaulted Property shall indicate that any parcel remaining unsold may be reoffered within a 90-day period and any new parties of interest shall be notified in accordance with Section 3701. This subdivision does not apply to properties sold pursuant to Chapter 8 (commencing with Section 3771).

SEC. 8. Section 3706.1 of the Revenue and Taxation Code is amended to read:

3706.1. The tax collector shall have authority to postpone the public auction sale or any portion thereof under the following conditions:

(a) Notice of any postponement of the sale shall be made by the tax collector who, by public declaration at the time and place originally fixed for the sale, may postpone the sale to a new time, date, and place. No other notice of the postponed sale need be given if the date for the new time, date, and place is within seven days of the time originally fixed for the sale.

(b) Notice of any postponed sale that is scheduled to be held not less than eight days nor more than 90 days from the time originally fixed for the sale, shall be made pursuant to the same provisions that were followed in providing notice of the original sale to parties of interest, as defined in Section 4675.

SEC. 9. Section 3811 of the Revenue and Taxation Code is amended to read:

3811. On execution of the deed to the taxing agency or nonprofit organization the tax collector shall report the following to the Controller, the assessor, and the auditor:

(a) The name of the purchaser.

(b) The effective date of the sale and the date of the transfer of the deed to the taxing agency or nonprofit organization.

(c) The amount for which the property was sold.

(d) The description of the property conveyed.

SEC. 10. Section 4672 of the Revenue and Taxation Code is amended to read:

4672. (a) There shall be distributed to the State of California, to be placed in the General Fund, one dollar and fifty cents (\$1.50) for all or any portion of each separately valued parcel of real property that is both subject to a power of sale pursuant to Section 3691 and sold to private parties or to a taxing agency.



(b) The one dollar and fifty cents (\$1.50) required to be distributed, pursuant to subdivision (a), shall be paid from the total proceeds of the sale. If the total amount of proceeds from the sale is insufficient, the one dollar and fifty cents (\$1.50) shall be reduced accordingly.

SEC. 11. Section 4672.1 of the Revenue and Taxation Code is amended to read:

4672.1. (a) There shall be distributed to the county general fund to reimburse the county for the cost of conducting the sale, one hundred fifty dollars (\$150) for all or any portion of each separately valued parcel of real property subject to a power of sale pursuant to Section 3691 and sold to private parties or to a taxing agency.

(b) The one hundred fifty dollars (\$150) required to be distributed pursuant to subdivision (a), shall be paid from the total proceeds of the sale only after satisfaction of the amount specified in Section 4672. If the amount of proceeds from the sale is insufficient, the one hundred fifty dollars (\$150) shall be reduced accordingly.

SEC. 12. Section 4986 of the Revenue and Taxation Code is amended to read:

4986. (a) All or any portion of any tax, penalty, or costs, heretofore or hereafter levied, shall, on satisfactory proof, be canceled by the auditor if it was levied or charged:

(1) More than once.

(2) Erroneously or illegally.

(3) On the canceled portion of an assessment that has been decreased pursuant to a correction authorized by Article 2 (commencing with Section 4876) of Chapter 2.

(4) On property that did not exist on the lien date.

(5) On property annexed after the lien date by the public entity owning it.

(6) On property acquired by the United States, the state, or by any county, city, school district or other public entity, to the extent provided in Article 5 (commencing with Section 5081).

(7) On that portion of an assessment in excess of the value of the property as determined by the assessor pursuant to Section 469.

(b) No cancellation under paragraph (2) of subdivision (a) may be made in respect of all or any portion of any tax, or penalties or costs attached thereto, collectible by county officers on behalf of



a city without the written consent of the city attorney or other officer designated by the city council unless the city council has authorized the cancellation by county officers. The resolution shall remain effective until rescinded by the city council.

(c) If the tax, penalty, or costs, are collected more than four years following the enrollment of the tax bill, the cancellation authorized pursuant to subdivision (a) may be performed if the cancellation action is initiated within 120 days of the payment.

SEC. 13. Section 20583 of the Revenue and Taxation Code is amended to read:

20583. (a) “Residential dwelling” means a dwelling occupied as the principal place of residence of the claimant, and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, owned by the claimant, the claimant and spouse, or by the claimant and either another individual eligible for postponement under this chapter or an individual described in subdivision (a), (b) or (c) of Section 20511 and located in this state. It shall include condominiums and mobilehomes that are assessed as realty for local property tax purposes. It also includes part of a multidwelling or multipurpose building and a part of the land upon which it is built. In the case of a mobilehome not assessed as real property that is located on land owned by the claimant, residential “dwelling” includes the land on which the mobilehome is situated and so much of the land surrounding it as reasonably necessary for use of the mobilehome as a home.

(b) As used in this chapter in reference to ownership interests in residential dwellings, “owned” includes (1) the interest of a vendee in possession under a land sale contract provided that the contract or memorandum thereof is recorded and only from the date of recordation of the contract or memorandum thereof in the office of the county recorder where the residential dwelling is located, (2) the interest of the holder of a life estate provided that the instrument creating the life estate is recorded and only from the date of recordation of the instrument creating the life estate in the office of the county recorder where the residential dwelling is located, but “owned” does not include the interest of the holder of any remainder interest or the holder of a reversionary interest in the residential dwelling, (3) the interest of a joint tenant or a tenant in common in the residential dwelling or the interest of a



tenant where title is held in tenancy by the entirety or a community property interest where title is held as community property, and (4) the interest in the residential dwelling in which the title is held in trust, as described in subdivision (d) of Section 62, provided that the Controller determines that the state's interest is adequately protected.

(c) For purposes of this chapter, the registered owner of a mobilehome shall be deemed to be the owner of the mobilehome.

(d) Except as provided in subdivision (c), and Chapter 3 (commencing with Section 20625), ownership must be evidenced by an instrument duly recorded in the office of the county where the residential dwelling is located.

(e) "Residential dwelling" does not include any of the following:

(1) Any residential dwelling in which the owners do not have an equity of at least 20 percent of the full value of the property as determined for purposes of property taxation or at least 20 percent of the fair market value as determined by the Controller and where the Controller determines that the state's interest is adequately protected. The 20 percent equity requirement shall be met at the time the claimant or authorized agent files an initial postponement claim and tenders to the tax collector the initial certificate of eligibility described in Sections 20602, 20639.6, and 20640.6.

(2) Any residential dwelling in which the claimant's interest is held pursuant to a contract of sale or under a life estate, unless the claimant obtains the written consent of the vendor under the contract of sale, or the holder of the reversionary interest upon termination of the life estate for the postponement of taxes and the creation of a lien on the real property in favor of the state for amounts postponed pursuant to this act.

(3) Any residential dwelling on which the claimant does not receive a secured tax bill.

(4) Any residential dwelling in which the claimant's interest is held as a possessory interest, except as provided in Chapter 3.5 (commencing with Section 20640).

(5) (A) Except as provided in this section, any residential dwelling on which the property taxes, as defined in Section 20584, are delinquent at the time the application for postponement under this chapter is made or on which any other property tax or special assessment imposed by a special district or other tax code area is



delinquent at the time the application for postponement under this chapter is made.

(B) Any taxes or assessments described in subparagraph (A) that are delinquent on July 1, 1977, will not disqualify an otherwise eligible dwelling for postponement under this chapter. An application for postponement under this chapter to postpone the payment of property taxes for the 1977–78 fiscal year, shall also constitute an application for the postponement of all those delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from that delinquency and those amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code; provided, however, that upon payment of delinquent taxes and assessments for fiscal year 1976–77 out of the amount appropriated by Section 16100, any delinquent penalties, interest, fees or other charges resulting from the delinquency of those taxes and assessments for fiscal year 1976–77 shall be canceled.

(C) For 1978–79 and thereafter, any taxes or assessments described in subparagraph (A) that became delinquent after the claimant was 62 and before the claimant first has established a lien pursuant to Section 16182 of the Government Code will not disqualify an otherwise eligible dwelling for postponement under this chapter. An application to postpone taxes for 1978–79 or thereafter shall also constitute an application for the postponement of all delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from the delinquency and those amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code.

(6) All taxes or assessments described in subparagraph (A) of paragraph (5) that are delinquent on the date this bill takes effect will not disqualify an otherwise eligible blind or disabled applicant's dwelling from postponement under this chapter. A blind or disabled citizen's application for postponement of property taxes will not constitute an application for the



postponement of any delinquent taxes and assessments, or any penalties, interest, fees or other charges resulting from delinquency. Delinquent taxes of blind or disabled applicants are not subject to postponement under this chapter.



Approved _____, 2004

Governor

